

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DENNIS B. EVANSON, BRENT H.
METCALF, STEPHEN F. PETERSEN,
REED H. BARKER, WAYNE F.
DEMEESTER, and GRAHAM R. TAYLOR,

Defendants.

ORDER

AND

MEMORANDUM DECISION

Case No. 2:05-CR-805 TC

Defendant Dennis Evanson has filed a motion seeking a hearing under Franks v. Delaware, 438 U.S. 154 (1978). Because Mr. Evanson has failed to make a substantial preliminary showing that the affidavits in support of the challenged warrants contained deliberate falsehoods or reckless disregard for the truth, the court denies the motion.

Mr. Evanson first contends that the affiant, Special Agent McDermott, falsely represented the deposition testimony given by Paul Taggart. But the court has reviewed the allegedly false testimony and the affidavits and concludes that Mr. Evanson has not made the required showing under Franks.

Mr. Evanson argues, correctly, that Mr. Taggart didn't use the words "sham" or "rigged." But Special Agent McDermott was not quoting Mr. Taggart, rather he was giving a summary of the testimony. Further, the court has reviewed the challenged testimony and the descriptions of

the testimony given by Special Agent McDermott and finds no deliberate falsehoods or reckless disregard for the truth.

Looking at Mr. Evanson's other claims, such as Special Agent McDermott's affidavit statements regarding double deductions, Mr. Evanson's ownership of two Utah corporations and other tax issues, the court concludes that Mr. Evanson has failed to show any false or reckless disregard for the truth.

For those reasons, the court DENIES the motion for a Franks hearing.

SO ORDERED this 31st day of August, 2007.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
Chief Judge